

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

JONATHAN MOSBY

PLAINTIFF

VS.

CIVIL ACTION NO. 4:13cv20-FKB

T. EVANS, et al.

DEFENDANTS

ORDER

Jonathan Mosby, a state inmate, brought this action pursuant to 42 U.S.C. § 1983 alleging denial of due process in two prison disciplinary proceedings. Having considered the complaint and Plaintiff's testimony at the *Spears*¹ hearing, the Court concludes that this matter should be dismissed for failure to state a claim.

Plaintiff's claims concern two RVR's he received in October of 2012: one for testing positive on a drug test, and another for being in an unauthorized area. He claims that the RVR's were wholly unfounded. Moreover, he has been unable to obtain any specifics about the positive drug test.

A prisoner's challenge to a prison disciplinary proceeding is limited to situations where a denial of due process implicates a constitutionally-protected interest, such as liberty. See *Johnson v. Rodriguez*, 110 F.3d 299, 308 (5th Cir. 1997). Plaintiff testified that the only punishment he received for the RVR's was a loss of canteen privileges for ninety days. Loss of privileges does not implicate a liberty interest because it does not pose an "atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." *Sandin v. Conner*, 515 U.S. 472, 484 (1995). For this reason,

¹See *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985).

Plaintiff's claims regarding the RVR's fail as a matter of law and are hereby dismissed.

A separate judgment will be entered.

SO ORDERED this the 6th day of November, 2013.

/s/ F. Keith Ball

UNITED STATES MAGISTRATE JUDGE